

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DOROTHY MARLER,)
)
Plaintiff,)
) Cause No.: 4:20-CV-790
v.)
) Division No.:
)
WAL-MART STORES EAST I, LP,)
)
Serve: CT CORPORATION SYSTEM)
 120 S. Central Ave.)
 Clayton, MO 63105) Personal Injury
) In excess of \$75,000.00
Defendant.)
)
) JURY TRIAL DEMANDED
)

COMPLAINT

COMES NOW Plaintiff Dorothy Marler, by and through her attorneys, Mandel, Mandel, Marsh, Sudekum, & Sanger LLP, and for her petition against Defendant Wal-Mart Stores East I, LP, states as follows:

PARTIES

1. Plaintiff, Dorothy Marler, is an individual and a resident of the County of St. Charles, State of Missouri.
2. Defendant, Wal-Mart Stores East I, LP, ("Wal-Mart"), is a limited partnership incorporated in the State of Delaware that owns, operates, and maintains a store and garden center located at 1971 Wentzville Pkwy. in the County of St. Charles, Missouri.

JURISDICTION AND VENUE

3. The parties in this claim are diverse, and the amount in controversy exceeds the jurisdictional amount. Jurisdiction is predicated on 28 U.S.C. § 1332.
4. The events giving rise to this cause of action occurred in Wentzville, MO. Venue is appropriate in the US District Court for the Eastern District of Missouri.

FACTS

5. That at all times hereinafter mentioned, the deeds, acts, omissions, and knowledge attributed to the Defendant were performed, omitted, or known by the Defendant, by and through their agents, servants, and employees, acting within the course and scope of their respective employment with Defendant.
6. That on or about May 23, 2020, Plaintiff was shopping in the Garden Center of the aforementioned Wal-Mart, when an unsecured, three-tiered A-frame plant holder on wheels was pushed by the wind into Plaintiff, knocking her onto the ground and thereby causing her to sustain injuries.
7. That Plaintiff's injuries were due to the negligence and carelessness of Defendant, Wal-Mart, by and through its agents, servants and employees, in one or more of the following respects to-wit:
 - a. Defendant, by and through its agents, servants and employees, knew or should have known that the plant holder was unsecured and the wheels were unlocked, thereby presenting a dangerous risk of injury to its customers, such as Plaintiff, in windy conditions.

- b. Defendant, by and through its agents, servants, and employees, failed to inspect said area and/or discover said dangerous condition.
- c. Defendant, by and through its agents, servants, and employees, failed to warn the public and particularly Plaintiff of said dangerous condition.
- d. Defendant, by and through its agents, servants, and employees, failed to repair or otherwise remedy said dangerous condition.
- e. Defendant, by and through its agents, servants, and employees, failed to use ordinary care to make the area reasonably safe.

8. That as a direct and proximate result of the aforesaid negligence and carelessness of Defendant, as aforesaid, Plaintiff was caused to suffer injuries to her hip, and the parts thereof necessitating hospitalization, surgery, physical therapy and other reasonable and necessary medical care. That Plaintiff's injuries are serious, painful, and disabling and will continue to be so in the future. Plaintiff has incurred reasonable and necessary medical expenses and will incur additional medical expenses in the future. Plaintiff has further incurred a loss of wages.

WHEREFORE, Plaintiff prays judgment against Defendant, in a fair and reasonable amount, in excess of \$75,000.00, together with costs expended herein, and any other remedy this Court deems just and proper.

Respectfully submitted,

MANDEL & MANDEL, LLP

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